IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 10742 of 2004

Khorakiwala Foundation .. Petitioner
V/s.
Union of India & Others .. Respondents

Mr. G. Joshi with Mr. Kaizad Irani i/b. M/s. Harish Joshi & Co. for the Petitioner
Mr. P.S. Jetly with Mr. A.J. Rana for the Respondent Nos. 1 to 3.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.
DATED : 14.01.2005

P.C.:-

1. Rule. Rule made returnable forthwith. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents. The learned counsel for the Respondent Nos. 1 to 3 waives service. By consent, taken up for hearing. In view of the order, which we propose to pass, presence of the Respondent Nos. 4, 5 and 6 is not necessary.

2. By this Petition, the Petitioner is challenging the order dated 27.5.2004. One of the contention is that the Petitioner was not duly served and the Respondent did not afford an opportunity of hearing. Over and above, it appears that the impugned order was passed on the basis that the bank had no documentary evidence to show that the goods were imported. However, it is clear from page 41 of the Petition, wherein a xerox copy of the letter dated 24.11.2004 from the bank is annexed, the said document clearly indicates that the bank was having the requisite bill of entry with regard to the aforesaid

import of goods into India. This document was not

brought to the notice of the Respondent. It appears that the authorities have passed the order on the basis of an letter dated 21.5.2004, issued by the State Bank of India C.A.G. branch, Mumbai, wherein it is mentioned that the Petitioner has not submitted any evidence in that behalf.

3. Now in view of the fact that the bank itself has clearly admitted that the necessary bill of entry was submitted by the Petitioner, as clearly indicated in the letter dated 24.11.2004, Rule is made absolute in terms of prayer clause (a), however with no order as to costs. It may be open to the Respondents to adopt appropriate proceedings in accordance with law, if they so desire.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)